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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/479,549	01/07/2000	E. MICHAEL ACKLEY, JR.	2280.2470	3198

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EXAMINER	
WEINSTEIN, STEVEN L	
ART UNIT	PAPER NUMBER
1761	

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/479,549	ACKLEY, JR. ET AL.	
	Examiner	Art Unit	
	Steven L. Weinstein	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 March 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4,9,10,12,59,61 and 63-66* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4,9,10,12,59,61 and 63-66* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *5/6/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 2, 4, 9, 10, 12, 59, 61 and 63-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Readford et al (WO '884) in view of Ream et al (WO '073) or vice versa, further in view of Yamamoto et al ('252), Krubert ('273), Van 0S('536), Karlyn et al ('340), Karlyn et al ('045) and Averill et al ('048), further in view of Noguchi (3,889,591), Ackley (4,905,589) and Ackley (2,859,689), for the reasons fully detailed in the Office actions mailed 1/20/04 and 11/17/04.

Noguchi is relied on as further evidence of printing indicia on tables, pills and candies while being held by vacuum in recesses in a conveying device which recesses are sized and shaped for the products. Ackley ('589) is relied on as further evidence of multiple printing of pellets and other small items whereas Ackey ('689) is relied on as further evidence of the printing of pellets, capsules, etc.

In view of the art, taken as a whole it would have been obvious to modify Redford et al and substitute in Redford et al, a second printing step for the etching step or it would have been obvious to modify Ream et al and substitute one conventional product for another along with the appropriate conventional conveying system appropriate for the product to be printed.

Claim 1 now recites that the pieces are sugar shell pieces. The art, taken as a whole, teaches the equivalency of pills, tablets, capsules and candy wherein the articles

can have shells (such as the capsules) so that the particular conventional product to be printed is seen to have been an obvious result effective variable. Sugar shell candy pieces, such as "M&M's are, of course, notoriously well known and have been printed. Note that the articles to be printed in the prior art have non-planar surfaces. As for the recitation that the pressure differential prevents "Yawing and Skewing", the art taken as a whole clearly and unequivocally teaches that vacuum is applied to articles to be printed to prevent movement of the articles during printing and not just to prevent the articles from falling out of the cavities as is urged. Redford, e.g. discloses that if the tablets are not securely and precisely held, the printing is often inaccurately positioned. Thus, Redford et al teaches that applicants problem (imprecise printing) and solution (fixing the work pieces by vacuum) even occurred in single printing. As for the registration within its designed placement, as noted previously, with the art, taken as a whole, teaching printing and etching or printing and printing, the degree of precision would have been an obvious function of the degree of sharpness and centering desired and an obvious function of the degree of vacuum required to maintain the work pieces as rigidly fixed as possible. As the art, taken as a whole, attests, applicants are not the inventor of multicolor printing wherein the work pieces are held or fixed by vacuum.

All of applicants remarks filed 3/14/05 have been fully and carefully considered but are not found to be convincing. It is urged that Redford teaches away from the invention. This is not seen to be true. It is not clear from the quote of Redford (put forward as evidence of teaching away from the invention) what Redford intended by this statement. Redford does not say images could not be made or that the images did not

contain a certain degree of quality, so that the statement is not seen to rule out any other printing technique. It is also urged that Redford does not have a registration requirement. Contrary to what is urged, the two devices used to form the image, as well as the work pieces themselves would have to be in registration for the final image to be centered and sharp. This is clearly why the work pieces are fixed by vacuum during both printing and etching.

Applicant's urgings are also directed to limitations not found in some or all of the claims. "Offset printing", for example, is not recited in the claims.

Finally, it is urged that there is no motivation to suggest that two registered images could be printed on a non-planer sugar shell surface. The significance of why the nature of the surface (i.e., sugar shell) would be unobvious is not clear. As to the non planer surface, since the invention apparently relies on the vacuum (actually, the recited pressure differential) to fix the work pieces for printing and the art taken as a whole teaches fixing work pieces in general for printing, multicolor printing, and printing and etching, there is nothing in the record to indicate way one of ordinary skill in the art would not be fairly led to employ two printing steps on a pressure differential fixed, non planar work piece.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven L Weinstein whose telephone number is (571) 272-1410. The examiner can normally be reached on Monday-Friday 6:30am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

S. Weinstein/af
July 28, 2005

Steven Weinstein
STEVE WEINSTEIN 1761
PRIMARY EXAMINER